

Name & Number: Matt Killough #3222  
 Attorney Pro Se  
 Utah State Prison  
 PO Box 250  
 Draper, Utah 84020

FILED  
 U.S. DISTRICT COURT  
 2018 APR 18 AM 11:21  
 RECEIVED CLERK  
 DISTRICT OF UTAH  
 MAR 22 2018  
 U.S. DISTRICT COURT  
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IN THE UNITED STATES DISTRICT COURT, DISTRICT OF UTAH  
 CENTRAL DIVISION

Matt Killough,  
 Plaintiff,

vs.

BRUCE O. BURNHAM, MD ET AL;  
 JOHN DOES 1-10, employees at  
 Utah State Prison, individually,  
 Defendants.

)  
 ) Case: 2:18-cv-00250  
 ) Assigned To : Waddoups, Clark  
 ) Assign. Date : 3/22/2018  
 ) Description: Killough v. Burnham, et al  
 )

) CIVIL RIGHTS COMPLAINT AND  
 ) DEMAND FOR JURY TRIAL  
 )

) Pursuant to 42 U.S.C. §1983  
 )  
 )

JURISDICTION

1. Plaintiff Matt Killough is a citizen of Utah, who presently resides at the Utah State Prison, P.O. Box 250, Draper, Utah 84020.
2. Defendant BRUCE O. BURNHAM is a citizen of Utah, and is employed as the Medical Director at the Utah State Prison for the Utah Department of Corrections. At the time the claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he/she is the Medical Director at the Utah State Prison for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as this form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

FS Matt Killough #3222

County of Residence of First Listed Plaintiff Utah  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

PRO SE

DEFENDANTS Bruce O. Burnham MD, Alfred Bigelow  
David Lombard MD, Kenneth Tubbs MD  
Mike Haglund LSW, Ron DeKle LSW, Count's Counselors  
Tony Washington Clinical Services Bureau Director Level 3 Hearing  
County of Residence of First Listed Defendant Utah

State Mills (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

RECEIVED CLERK

Attorneys (If Known)

MAR 22 2018

U.S. DISTRICT COURT

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	REAL ESTATE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input checked="" type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC 1983

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE

2-20-18

SIGNATURE OF ATTORNEY OF RECORD

Matt Killough PRO SE

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JL

Case: 2:18-cv-00250

Assigned To: Waddoups, Clark

Assign. Date: 3/22/2018

Description: Killough v. Burnham, et al

3. Defendant David Lambert Egli MD is a citizen of Utah, and is employed as the Mental health psychiatrist at Olympus at the Utah State Prison for the Utah mental health Department of Corrections. At the time the claim(s) alleged in this complaint arose, this defendant was acting under color of state law in that he/she is the Mental health psychiatrist at Olympus mental health for the Utah Department of Corrections and is directly responsible for the wrongful actions alleged herein.

4. Other Defendants by name and position, if known: David Lambert P Egli MD, Chris Abbott PA, Kennon Tubbs MD, Mike Hoglund LCSW, John Gines, Roy Peckle LCSW, Curtis Gardner Hearing officer, Debra Smith RN, Suzetta McPherson LCSW, Jason Jackman RN, Bruce O'Burnham MD, Tony Washington

5. Defendant John Does 1-10, whose true names are unknown and when true names are ascertained the pleadings will be amended accordingly, are citizens of Utah, and are employed at the Utah State Prison. At the time the claim(s) alleged in this complaint arose, these defendants were acting under color of state law in that they are employees for the Utah Department of Corrections and are directly responsible for wrongful actions alleged herein.

6. Jurisdiction is invoked pursuant to 28 U.S.C. §1343 (3); and 42 U.S.C. §1983.

#### B. NATURE OF CASE (1).

Petitioner claims that the respondents are failing to adequately treat the petitioner's serious mental health/medical conditions. Petitioner claims to have submitted HER's forms to be seen by mental health providers and medical providers at the Draper USP CUCF who work for the Utah Department of Corrections and they refuse to adequately treat his mental health and medical conditions. Petitioner is being harassed and retaliated against



1. From once my medical records, he has refused to tell me results of tests as well as recommendations and outcomes of the E.R. room at G.V. Hospital in Gunnison Utah. This has happened more than once, one time he asked me "quote" what did they tell you at the hospital? I replied that Dr. asked me if I had been taking any aspirin and when I told her no she said to me, because there was a high level of aspirin that showed up in your blood work. As soon as I said that Dr. Burnham slammed his left hand down on top of some papers very hard right next to his computer and replied to me in a very angry threatening voice, I know what they said, it's right here in these papers at which time he scared me and I replied I'm just trying to answer your question Sir, I'm not trying to argue with you it was like he didn't even want me to know what was said. That's all I can think. Petitioner does not know if he is receiving adequate treatment or not! I know the prison does not have to go by the recommendations of outside specialists or even from the E.R. room because I've been told this for yrs and I'm still being told this by Dr. Burnham he has not to this day ever told me any recommendations from when I was sent to the E.R. in Gunnison UT. I had to search for these records and I found out one time I went to the E.R. they had stated that if I have chest pain I should be put on 24hr. heart monitor by Drs. not associated with the department of corrections or even from prison clinical staff. Plaintiff claims that information from the plaintiff's medical records have been violated his rights to HIPAA laws 1996 of health information privacy to where his medical and mental health records by Dr. Egill who is a psychiatrist at the department of corrections who has been known on numerous occasions to violate by allowing prison officers to read inmates confidential records including my own right in front of me. Some of these inmates are still in prison some are not but are willing to go to court if needed this is not an isolated incident. Dr. Tubbs also done the same thing with the plaintiff's medical & mental health records at the Droper Facility with non medical staff a particular officer by the name of Bowman questioned Dr. Tubbs right in front of me about medical things that had nothing to do with safety or security of the institution the Dr. even turned his computer at first toward me and told me to read what was on it when I told Dr. Tubbs that I did not have my glasses that was when he said shit to me and turned the computer back to himself and began to read them out loud there was no reason and I asked him not to please, there was no reason for the officers to be in there in the first place as I was already secured to the desk I was sitting in? These officers always harassed me, after this meeting I was told by officers after I said I was going to file a grievance that they were going to make my life hell I was scared and still am. Then officers Bowman stated you've been here long enough Killough you know how it works. Mike Hoglund who I told about all this? I had filed a grievance or is aware of these types of actions going on there for years? going on in Olympus mental health as well as population now to this day! So does Roy Peckle a LCSW? Shumway LCSW I've also told lots of other therapist about this kind of stuff Oliver as well. I've never been told diabetes was or ever could be a side effect of seroquel and when I first asked Dr. Burnham if Seroquel can cause diabetes he laughed at me and said no this was when I've seen him for the very first time in my life. I have never especially myself been told side effects of medications not even now if I had been told I would of never had diabetes, I could of died, I hear it yrs later when I stopped taking the Seroquel I never needed this medication. Seroquel I was told by Curtis Gardner in 2014 that he checked the website of the FDA and that diabetes was not one of the side effects of Seroquel. I trusted these people with my life to do what's right because they are put in this high legal position to uphold the law I trust these people not to lie to me. God helps out here, at the hearing office if we cannot count on our keepers to keep us safe. In 2015 I received 716 pages from

Bo Con. INUED Page 5

The FDA stating that diabetes, high cholesterol and low white blood count are all side effects of Seroquel I also have medical records that will show I had all these problems I was even told by Dr. Egli that they don't tell all of the inmates of the side effects that's a chance they take they don't explain side effects I was told that by Dr. Tubbs also I still to this day have serious side effects and they are refusing to treat the side effects they caused by giving me Seroquel I was told by Dr. Blavis when I told him I was on 100mg of Seroquel, Wellbutrin and Effexor when I was at max dose "quote" "Dr. Blavis told me word for word that he would of never ever put me on that much Seroquel it was too much". side effects I still have are ties with my mouth and facial expressions won't go away my legs ache all the time and won't stop moving and I can't stand still and my feet feel like I'm walking on hot coals and needles all the time the prison refuses to treat these problems, I asked Dr. Burnham "quote" "could you please do some tests and tell me how bad my body has been messed up inside from having diabetes for so long, I have no pre existing problems in my whole life or family history of diabetes or illness

### C. Cause of Action

(b.) Plaintiff alleges that the following Constitutional rights, privileges or immunities have been violated and that the following facts form the basis for the allegations?

(1). 1. Count 1: Plaintiff's Sixth Amendment and Liberty interests to equal protection are denied by the defendant based upon the following: Plaintiff has been denied adequate medical & mental health help and has brought it to the attention of Dr. Egli, Mike Hoglund, Dr. K. Tubbs, Dr. Bruce Burnham MD, Dr. Blavis, Tony Washington



Continued

## C. Cause of Action

ON 7-24-16 / RT

Dr. Burnham on one specific occasion I went to the E.R. at Garrison Valley hospital because of chest pain on this date and time, it was professional recommendation that I be placed on a 24 hr holter monitor. Dr. Burnham told me no he was not going to do it. the very next day for a follow up he also showed ~~anger~~ Kay told me when I asked him if I could please get the holter monitor as if the money was coming out of his pocket. This is a very bad ON going CONCERN, AND ON Feb. 11-2018, I was Told That as a part of this grievance which is ON DR. Burnham "Clinical Services has since met with staff and re-emphasized the importance of Professionalism during appointments. So this element of your grievance has been addressed internally by the bureau's own Leadership. I urge you to continue to work with medical staff for optimal treatment results." as of this day 2-25-2018 I still have NOT been seen for the last time I feel and hurt myself and layed ON my cell floor 2 1/2 to 3 hours the officer's would walk by during there late night chucks but they where walking so fast even with me waving my hand just keep going. I finally made in it to my bunk this truly goes on too. Please I cannot legal help from the contract attorneys at the prison Will you all look at the Nature of Case part of this complaint as I thank I put most of what ya'll are asking me here in that part,

2. Count II: Plaintiffs Eighth Amendment and Liberty Interests to be free from cruel and unusual punishment have been violated by Defendants actions in that -

Defendants Tony Washington, Dr. Burnham, Dr. Egli, Dr. Blavis Dr. Tubbs and Mike Haglund wouldn't let me go to Olympus mental health even after a psychiatrist ordered me to be transferred to Olympus Mike Haglund refused to send me in 2010 and even told the doctor the reason Mike Haglund was not going to let me go back over to Olympus mental health is because it was to hard to get rid of me the last time I was there and Dr. Dreper MD let me hear Mr. Haglund LCSW say that for myself and after Dr. Dreper got off of the phone he told me quote "you in need of mental health therapy for being sexually molested by a mental health therapist years ago. You mentally ill & need intensive therapy and to be stabilized on medication and the Dr. told me quote "it shouldn't have anything to do with you being to hard to get rid of the last time you was there in mental health because you needed to be there just like you do know to this day I am receiving alot of retaliation threats and harassment I did file a 1983 on being sexually molested by that therapist in 1989 I filed it in 1991 and in 1993 this case # 2:91-CV-00726 and for being threatened and harassed and put on death row for a year and never did anything wrong and was told by investigators not to file anything in court or even a grievance and they would let me out in a year I filed a 1983 which never made it to the court I've filed grievances which have not come back or made it to the courts all of this can be proven and there are witnesses I was in Utahs

Other rights being violated (include amendments as appropriate)

**D. INJURY**

Describe how you were injured as a result of the claims herein:

*Dr. Burnham has shown anger and violence towards me and HS in my life. Dr. Burnham himself has caused me severe pain. Suffering with regard to my lower back I have fallen on numerous occasions and still have fresh scars on both legs I have reported it to Dr. Burnham and I was never examined to this day I hurt so bad that I can't even sleep at night. He or is still in Gurnsey has helped me with this at all I have asked if I could please get an up to date MRI done. Mr. Dore can't wait to let me out no one turned in much. Still at it. Most ship on this problem but no help I have on MRI done in 2007 that clearly shows my back is really bad and they keep putting in my medical file nothing more to be done. I had a neurosurgeon tell me on telephone that I should get pain management and regular physical therapy I ask him if I could get physical therapy for my back and he told me no the physical therapist at the prison does not have the appropriate equipment for this. The proper care I've been to him before and all he does is put a heating pad on my back and a tingent unit that shocks your muscles which doesn't work at all and I'm still here. It's such a Dr. Egli on numerous occasions let officers read my mental health records. Mike Hodel used mental health prison director for a few yrs and since I filed a grievance on him he has done nothing but refuse me adequate mental health care. The head psychiatrist at the prison in Orford Dr. Blavis for the past five yrs at least will ask me and others what we want as for our medication and he orders whatever we ask for to get him on and he keeps this because of he told him the prison refuses to this day to address and provide me with help with the side effects that diabetes has caused me from taking Serquel for so many yrs Dr. Burnham flat out refuses to help me with the neuropathy in my feet they won't do this a day from this I have all the records that will prove all of this I can also acquire statements from other inmates to the facts stated herein with regard to Dr. Blavis.*

13. Plaintiff has not filed any other law suits in state or federal court dealing with the

*same facts involved in this action. But did file a 1983 law suit in this court in 1991 for forcible sexual assault by a mental health therapist & cruel and unusual punishment & threats from the criminal investigators. Until at the Utah State Prison, was stipulated out of court settlement of \$16,000.00.*

14. Plaintiff has previously sought informal or formal relief from the appropriate

administrative officials regarding the acts complained of herein to no avail.

**F. REQUEST FOR RELIEF**

WHEREFORE, Plaintiff prays for the following relief:

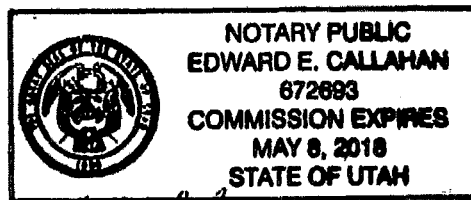
- a) Trial by jury.
- b) That counsel be appointed to represent the Plaintiff in this action as he can't spell or read enough to give him a fair chance for justice please.
- c) Punitive damages in the amount of \_\_\_\_\_?
- d) Compensatory damages in the amount of \_\_\_\_\_?



- e) Grant attorney fees and court costs for this action.
- f) Such other and further relief the court deems just and proper.

DATED this 1 day of FEB, 2018

Matt Killough  
Plaintiff, Attorney pro se



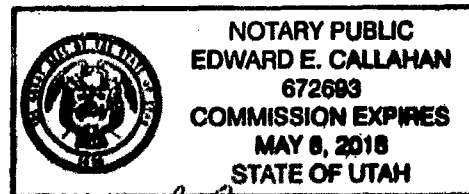
[Signature]

**DECLARATION UNDER PENALTY OF PERJURY**

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained therein is true and correct, and filed according to 28 U.S.C. Sec. 1976 and 18 U.S.C. Sec. 1621.

EXECUTED at Utah State Prison on FEB 2018

Mark Kilbough  
Plaintiff



[Signature]